

Key Elements of Public Law 107-107
Active Duty Survivor Benefit Plan (SBP)
Eligibility

On 28 December 2001, President Bush signed the National Defense Authorization Act for Fiscal Year (FY) 2002. One of its provisions was the establishment of new eligibility criteria in the Survivor Benefit Plan (SBP). This new eligibility is applicable to non-retirement eligible members of the Uniformed Services who died on active duty, while in the line of duty. This includes reserve members on active duty for annual training duty, whether or not their orders specify a period of more than 30 days. Reserve members serving periods of inactive duty training are not included.

- Eligible dependents include the surviving spouse, unless an annuity is payable to a former spouse, or the member's children when a former spouse annuity does not apply.
- A member's children are not eligible beneficiaries when a surviving spouse becomes ineligible by reason of remarriage before age 55.
- No annuity will be paid under these provisions to a person with an insurable interest.

Eligibility for enrollment in the Supplemental Survivor Benefit Plan (SSBP) is not authorized.

- The provisions of law for members who are/were retirement eligible are unchanged by the new law.
- The provisions of the law were retroactive to active duty deaths that occurred on 10 September 2001.

Recently, the Department of Defense (DoD) published implementing instructions for this new law. When Commanding Officers or Officers in Charge (COs/OICs) are determining eligibility for SBP benefits, a Sailor's death will generally be considered in the line of duty unless: (1) the death occurred while the member was not serving on active duty, (2) the death was the result of the member's own intentional misconduct or willful negligence, or (3) the death occurred during a period of unauthorized absence.

A NAVADMIN will be published directing line of duty determinations from affected commands be provided to PERS-665 for appropriate action.

The Defense Finance and Accounting Service-Cleveland Center (DFAS-CL) will calculate the payable annuity to the eligible beneficiary.

Area Coordinators should make this information available to future Casualty Assistance Calls Officers (CACOs), as well as those who were assigned to cases involving surviving dependents previously mentioned above. CACOs will make liaison with their respective area coordinators for information prior to contacting the SBP Program Manager for assistance. Should the area coordinator be unable to assist, the CACO should contact the SBP Program Manager either by email at basil.coleman@persnet.navy.mil or phone DSN 882-4304, 1-800-255-8950 extension 44304, or commercial 901-874-4304.